

30.202-8

Noncompliance with part 31 shall be processed separately, in accordance with normal administrative practices.

[57 FR 39587, Aug. 31, 1992, as amended at 61 FR 18917, Apr. 29, 1996; 62 FR 40237, July 25, 1997]

30.202-8 Subcontractor disclosure statements.

(a) When the Government requires determinations of adequacy or inadequacy, the ACO cognizant of the subcontractor shall provide such determination to the ACO cognizant of the prime contractor or next higher tier subcontractor. The ACO cognizant of higher tier subcontractors or prime contractors shall not reverse the determination of the ACO cognizant of the subcontractor.

(b) Any determination that it is impractical to secure a subcontractor's Disclosure Statement must be made in accordance with 48 CFR 9903.202-2 (FAR appendix).

[57 FR 39587, Aug. 31, 1992, as amended at 61 FR 18918, Apr. 29, 1996; 62 FR 40237, July 25, 1997]

Subpart 30.3—CAS Rules and Regulations [Reserved]

NOTE: See 48 CFR 9903.3 (FAR appendix).

Subpart 30.4—Cost Accounting Standards [Reserved]

NOTE: See 48 CFR part 9904 (FAR appendix).

Subpart 30.5—Cost Accounting Standards for Educational Institutions [Reserved]

NOTE: See 48 CFR part 9905 (FAR appendix).

Subpart 30.6—CAS Administration

30.601 Responsibility.

(a) The cognizant ACO shall perform CAS administration for all contracts in a business unit notwithstanding retention of other administration functions by the contracting officer.

(b) Within 30 days after the award of any new contract or subcontract subject to CAS, the contracting officer,

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contractor, or subcontractor making the award shall request the cognizant ACO to perform administration for CAS matters (see subpart 42.2).

[57 FR 39587, Aug. 31, 1992, as amended at 59 FR 67043, Dec. 28, 1994]

30.602 Changes to disclosed or established cost accounting practices.

Adjustments to contracts and withholding amounts payable for CAS noncompliance, new standards, or voluntary changes are required only if the amounts involved are material. In determining materiality, the ACO shall use the criteria in 48 CFR 9903.305 (FAR appendix). The ACO may forego action to require that a cost impact proposal be submitted or to adjust contracts, if the ACO determines the amount involved is immaterial. However, in the case of noncompliance issues, the ACO shall inform the contractors that:

(a) The Government reserves the right to make appropriate contract adjustments if, in the future, the ACO determines that the cost impact has become material and

(b) The contractor is not excused from the obligation to comply with the applicable Standard or rules and regulations involved.

[57 FR 39587, Aug. 31, 1992, as amended at 61 FR 18918, Apr. 29, 1996; 62 FR 40237, July 25, 1997]

30.602-1 Equitable adjustments for new or modified standards.

(a) *New or modified standards.* (1) The provision at 52.230-1, Cost Accounting Standards Notices and Certification, requires offerors to state whether or not the award of the contemplated contract would require a change to established cost accounting practices affecting existing contracts and subcontracts. The contracting officer shall ensure that the contractor's response to the notice is made known to the ACO.

(2) Contracts and subcontracts containing the clause at 52.230-2, Cost Accounting Standards, or FAR 52.230-5, Cost Accounting Standards—Educational Institution, may require equitable adjustments to comply with new or modified CAS. Such adjustments are limited to contracts and subcontracts awarded before the effective date of

each new or modified standard. A new or modified standard becomes applicable prospectively to these contracts and subcontracts when a new contract or subcontract containing the clause at 52.230-2 or 52.230-5 is awarded on or after the effective date of the new or modified standard.

(3) Contracting officers shall encourage contractors to submit to the ACO any change in accounting practice in anticipation of complying with a new or modified standard as soon as practical after the new or modified Standard has been promulgated by the CASB.

(b) *Accounting changes.* (1) The clause at FAR 52.230-6, Administration of Cost Accounting Standards, requires the contractor to submit a description of any change in cost accounting practices required to comply with a new or modified CAS within 60 days (or other mutually agreed to date) after award of a contract requiring the change.

(2) The ACO, with the assistance of the auditor, shall review the proposed change concurrently for adequacy and compliance (see 30.202-7). If the description of the change meets both tests, the ACO shall notify the contractor and request submission of a cost impact proposal in accordance with FAR 30.602.

(c) *Contract price adjustments.* (1) The ACO shall promptly analyze the cost impact proposal with the assistance of the auditor, determine the impact, and negotiate the contract price adjustment on behalf of all Government agencies. The ACO shall invite contracting officers to participate in negotiations of adjustments when the price of any of their contracts may be increased or decreased by \$10,000 or more. At the conclusion of negotiations, the ACO shall—

(i) Execute supplemental agreements to contracts of the ACO's own agency (and, if additional funds are required, request them from the appropriate contracting officer);

(ii) Prepare a negotiation memorandum and send copies to cognizant auditors and contracting officers of other agencies having prime contracts affected by the negotiation (those agencies shall execute supplemental

agreements in the amounts negotiated); and

(iii) Furnish copies of the memorandum indicating the effect on costs to the ACO of the next higher tier subcontractor or prime contractor, as appropriate, if a subcontract is to be adjusted. This memorandum shall be the basis for negotiation between the subcontractor and the next higher tier subcontractor or prime contractor and for execution of a supplemental agreement to the subcontract.

(2) If the parties fail to agree on the cost or price adjustment, the ACO may make a unilateral adjustment, subject to contractor appeal as provided in the clause at 52.233-1, Disputes.

(d) *Remedies for contractor failure to make required submissions.* (1) If the contractor does not submit the accounting change description or the general dollar magnitude of the change or cost impact proposal (in the form and manner specified), the ACO, with the assistance of the auditor, shall estimate the general dollar magnitude of the cost impact on CAS-covered contracts and subcontracts. The ACO may then withhold an amount not to exceed 10 percent of each subsequent amount determined payable related to the contractor's CAS-covered prime contracts, up to the estimated general dollar magnitude of the cost impact, until the required submission is furnished by the contractor.

(2) If the contractor has not submitted the cost impact proposal before the total withheld amount reaches the estimated general dollar magnitude and the ACO determines that an adjustment is required (see 30.602), the ACO shall request the contractor to agree to the cost or price adjustment. The contractor shall also be advised that in the event no agreement on the cost or price adjustment is reached within 20 days, the ACO may make a unilateral adjustment, subject to contractor appeal as provided in the clause at 52.233-1, Disputes.

[57 FR 39587, Aug. 31, 1992, as amended at 59 FR 67043, Dec. 28, 1994; 61 FR 18918, Apr. 29, 1996]